



General Assembly

**Substitute Bill No. 6295**

January Session, 2009

\* \_\_\_\_\_ HB06295JUD \_\_\_\_\_ 042209 \_\_\_\_\_ \*

**AN ACT EXTENDING THE TIME PERIOD FOR DISQUALIFICATION OF CERTAIN STATE CONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4b-95 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) The awarding authority shall furnish to every person applying  
4 therefor a form for general bid.

5 (b) Every general bid submitted for a contract subject to this chapter  
6 shall be submitted on a form furnished by the awarding authority. The  
7 form provided by the awarding authority shall provide a place for  
8 listing the names and prices of subcontractors for the four classes of  
9 work specified in subsection (a) of section 4b-93, and for each other  
10 class of work included by the awarding authority pursuant to said  
11 subsection and state that: (1) The undersigned agrees that if selected as  
12 general contractor, he shall, within five days, Saturdays, Sundays and  
13 legal holidays excluded, after presentation thereof by the awarding  
14 authority, execute a contract in accordance with the terms of the  
15 general bid; (2) the undersigned agrees and warrants that he has made  
16 good faith efforts to employ minority business enterprises as  
17 subcontractors and suppliers of materials under such contract and  
18 shall provide the Commission on Human Rights and Opportunities  
19 with such information as is requested by the commission concerning  
20 his employment practices and procedures as they relate to the

21 provisions of the general statutes governing contract requirements;  
22 and (3) the undersigned agrees that each of the subcontractors listed  
23 on the bid form will be used for the work indicated at the amount  
24 stated, unless a substitution is permitted by the awarding authority.  
25 The awarding authority may require in the bid form that the general  
26 contractor agree to perform a stated, minimum percentage of work  
27 with his own forces.

28 (c) General bids shall be for the complete work as specified and shall  
29 include the names of any subcontractors for the four classes of work  
30 specified in subsection (a) of section 4b-93, and for each other class of  
31 work for which the awarding authority has required a separate section  
32 pursuant to said subsection and the dollar amounts of their  
33 subcontracts, and the general contractor shall be selected on the basis  
34 of such general bids. It shall be presumed that the general bidder  
35 intends to perform with its own employees all work in such four  
36 classes and such other classes, for which no subcontractor is named.  
37 The general bidder's qualifications for performing such work shall be  
38 subject to review under section 4b-92. Every general bid which is  
39 conditional or obscure, or which contains any addition not called for,  
40 shall be invalid; and the awarding authority shall reject every such  
41 general bid. The awarding authority shall be authorized to waive  
42 minor irregularities which he considers in the best interest of the state,  
43 provided the reasons for any such waiver are stated in writing by the  
44 awarding authority and made a part of the contract file. No such  
45 general bid shall be rejected because of the failure to submit prices for,  
46 or information relating to, any item or items for which no specific  
47 space is provided in the general bid form furnished by the awarding  
48 authority, but this sentence shall not be applicable to any failure to  
49 furnish prices or information required by this section to be furnished  
50 in the form provided by the awarding authority. General bids shall be  
51 publicly opened and read by the awarding authority forthwith. The  
52 awarding authority shall not permit substitution of a subcontractor for  
53 one named in accordance with the provisions of this section or  
54 substitution of a subcontractor for any designated subtrade work bid

55 to be performed by the general contractor's own forces, except for  
56 good cause. The term "good cause" includes but is not limited to a  
57 subcontractor's or, where appropriate, a general contractor's: (1) Death  
58 or physical disability, if the listed subcontractor is an individual; (2)  
59 dissolution, if a corporation or partnership; (3) bankruptcy; (4) inability  
60 to furnish any performance and payment bond shown on the bid form;  
61 (5) inability to obtain, or loss of, a license necessary for the  
62 performance of the particular category of work; (6) failure or inability  
63 to comply with a requirement of law applicable to contractors,  
64 subcontractors, or construction, alteration, or repair projects; (7) failure  
65 to perform his agreement to execute a subcontract under section 4b-96.

66 (d) The general bid price shall be the price set forth in the space  
67 provided on the general bid form. No general bid shall be rejected (1)  
68 because of error in setting forth the name of a subcontractor as long as  
69 the subcontractor or subcontractors designated are clearly identifiable,  
70 or (2) because the plans and specifications do not accompany the bid or  
71 are not submitted with the bid. Failure to correctly state a  
72 subcontractor's price shall be cause for rejection of the general bidder's  
73 bid.

74 (e) Any general contractor who violates any provision of this section  
75 [shall] may be disqualified from bidding on other contracts that are  
76 subject to the provisions of this chapter for a period not to exceed  
77 twenty-four months if the violation occurred on or before September  
78 30, 2009, and for a period not to exceed five years if the violation  
79 occurs on or after October 1, 2009, commencing from the date on which  
80 the violation is discovered, for each violation. The awarding authority  
81 shall periodically review the general contractor's subcontracts to  
82 [insure] ensure compliance with [such provisions] this section, and  
83 shall after each such review prepare a written report setting forth its  
84 findings and conclusions. The Commissioner of Public Works may  
85 initiate a disqualification proceeding only after consulting with the  
86 awarding authority, if any, and the Attorney General and shall provide  
87 notice and an opportunity for a hearing to the contractor who is the  
88 subject of the proceeding. The hearing shall be conducted in

89 accordance with the contested case procedures set forth in chapter 54.  
90 The commissioner shall issue a written decision not later than ninety  
91 days after the last date of such hearing and state in the decision the  
92 reasons for the action taken and, if the contractor is being disqualified,  
93 the period of such disqualification. The existence of a cause for  
94 disqualification shall not be the sole factor to be considered in  
95 determining whether the contractor shall be disqualified. In  
96 determining whether to disqualify a contractor, the commissioner shall  
97 consider the seriousness of the contractor's acts or omissions and any  
98 mitigating factors. The commissioner shall send the decision to the  
99 contractor by certified mail, return receipt requested. The written  
100 decision shall be a final decision for purposes of sections 4-180 and 4-  
101 183. The commissioner may reduce the period or extent of  
102 disqualification, upon the contractor's request, supported by  
103 documentation, for the following reasons: (1) Newly discovered  
104 material evidence; (2) bona fide change in ownership or management;  
105 or (3) other reasons the commissioner deems appropriate.

106 Sec. 2. Subsection (c) of section 31-57c of the general statutes is  
107 repealed and the following is substituted in lieu thereof (*Effective*  
108 *October 1, 2009*):

109 (c) The Commissioner of Public Works may disqualify any  
110 contractor [ , for up to two years,] from bidding on, applying for, or  
111 participating as a subcontractor under, contracts with the state, acting  
112 through any of its departments, commissions or other agencies, except  
113 the Department of Administrative Services, the Department of  
114 Transportation and the constituent units of the state system of higher  
115 education, for one or more causes set forth under subsection (d) of this  
116 section for up to two years if the basis for such cause occurred on or  
117 before September 30, 2009, and for a period not to exceed five years if  
118 the basis for such cause occurs on or after October 1, 2009. The  
119 commissioner may initiate a disqualification proceeding only after  
120 consulting with the contract awarding agency, if any, and the Attorney  
121 General and shall provide notice and an opportunity for a hearing to  
122 the contractor who is the subject of the proceeding. The hearing shall

123 be conducted in accordance with the contested case procedures set  
124 forth in chapter 54. The commissioner shall issue a written decision  
125 within ninety days of the last date of such hearing and state in the  
126 decision the reasons for the action taken and, if the contractor is being  
127 disqualified, the period of such disqualification. The existence of a  
128 cause for disqualification shall not be the sole factor to be considered in  
129 determining whether the contractor shall be disqualified. In  
130 determining whether to disqualify a contractor, the commissioner shall  
131 consider the seriousness of the contractor's acts or omissions and any  
132 mitigating factors. The commissioner shall send the decision to the  
133 contractor by certified mail, return receipt requested. The written  
134 decision shall be a final decision for the purposes of sections 4-180 and  
135 4-183.

136 Sec. 3. Subsection (c) of section 31-57d of the general statutes is  
137 repealed and the following is substituted in lieu thereof (*Effective*  
138 *October 1, 2009*):

139 (c) The Commissioner of Transportation may disqualify any  
140 contractor [, for up to two years,] from bidding on, applying for, or  
141 participating as a subcontractor under, contracts with the state, acting  
142 through the Department of Transportation, for one or more causes set  
143 forth under subsection (d) of this section for up to two years if the  
144 basis for such cause occurred on or before September 30, 2009, and for  
145 a period not to exceed five years if the basis for such cause occurs on or  
146 after October 1, 2009. The commissioner may initiate a disqualification  
147 proceeding only after consulting with the Attorney General and shall  
148 provide notice and an opportunity for a hearing to the contractor who  
149 is the subject of the proceeding. The hearing shall be conducted in  
150 accordance with the contested case procedures set forth in chapter 54.  
151 The commissioner shall issue a written decision within ninety days of  
152 the last date of such hearing and state in the decision the reasons for  
153 the action taken and, if the contractor is being disqualified, the period  
154 of such disqualification. The existence of a cause for disqualification  
155 does not require that the contractor be disqualified. In determining  
156 whether to disqualify a contractor, the commissioner shall consider the

157 seriousness of the contractor's acts or omissions and any mitigating  
158 factors. The commissioner shall send the decision to the contractor by  
159 certified mail, return receipt requested. The written decision shall be a  
160 final decision for the purposes of sections 4-180 and 4-183.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	4b-95
Sec. 2	<i>October 1, 2009</i>	31-57c(c)
Sec. 3	<i>October 1, 2009</i>	31-57d(c)

**GAE**      *Joint Favorable Subst.*

**JUD**      *Joint Favorable*